

10★Eight

In Service for Arkansas Law Enforcement

Arkansas
Attorney General
Mike Beebe

Volume 12 Number 4

March 2005



DEAR TEN-EIGHT READER:

I am pleased to announce the passage of Act 256 of 2005 to combat the methamphetamine problem, which has become epidemic in Arkansas. Meth can be made from ingredients in over-the-counter, nonprescription cold or allergy relievers, and Arkansas consistently ranks as one of the top-two states operating clandestine meth labs.

Act 256, drafted by my office and unanimously passed by the General Assembly, restricts the sale of certain cold and allergy medications in tablet form that contain pseudoephedrine and ephedrine and places them behind pharmacy counters. Pharmacists will also log names of the people who buy the cold medicines. I thank the pharmacists and legislators of Arkansas for their efforts to preserve the public peace, health, and safety, and I look forward to working with law enforcement as we seek to rid our state of this vicious enemy—meth.

Sincerely,

Mike Beebe

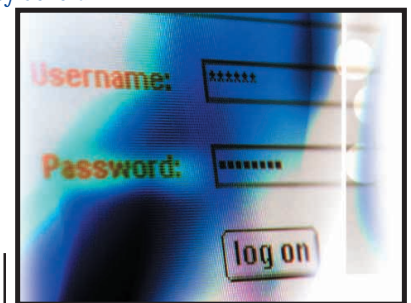
TRAINING OPPORTUNITIES

By: Valerie Kelly, Assistant Attorney General

The Jimmy Ryce Law Enforcement Training Center (JRLETC) at the National Center for Missing and Exploited Children (NCMEC) in Alexandria, Virginia, offers the courses listed below for law-enforcement officers and prosecutors interested in the investigation and prosecution of computer-facilitated crimes against children.

Protecting Children Online is a four-and-one-half-day course designed to familiarize law-enforcement investigators with the technical and legal issues involved in conducting investigations of computer-facilitated crimes against children. Issues covered include the following: Computer Crimes against Children; Orientation to Computer Technology; Investigative Techniques; Legal Issues; Investigative Standards and Best Practices; and Available Resources. The costs for training, training materials, and lodging are covered while the participant attends classes. The program typically is delivered Monday through Friday regionally throughout the United States. For a course schedule, questions, or registration information, please contact a Fox Valley Technical College coordinator at 1-800-648-4066 or via the Web site at <http://dept.fvtc.edu/ojdp>.

Protecting Children Online for Prosecutors is a four-and-one-half-day course designed to familiarize prosecutors with computer-facilitated crimes against children and the ever-evolving legal and technical issues surrounding those investigations. Issues covered include the following: Computer Crimes against Children; Technical Overview; Expert Testimony, Charging, Pleas, and Sentencing; Medical Issues; Defenses; Preparing Cases; Investigative Standards and Best Practices; and Resources. The costs for the training, training materials, airfare, lodging, breakfast, and lunch are covered while the participant attends classes. The program typically is delivered Sunday through Thursday at the JRLETC at NCMEC headquarters in Alexandria, Virginia. For questions or registration information, please contact the NCMEC Training Division at 703-837-6334 or via e-mail at JRLETC@ncmec.org.



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2005 ACTS OF PARTICULAR INTEREST TO LAW ENFORCEMENT

By: Laura Shue, Assistant Attorney General

ACT 26 OF 2005

Amends § 16-81-106(g) to allow certified law-enforcement officers of the U.S. Fish and Wildlife Service and U.S. Forest Service to make arrests for violations of Arkansas laws. Effective 2/1/2005.

ACT 55 OF 2005

Amends § 9-15-203 to remove requirement of Social Security numbers on any petition for an order of protection.

ACT 65 OF 2005

Increases a circuit-court, civil-action filing fee by \$25.00 to increase funding support for the Arkansas State Crime Laboratory.

ACT 66 OF 2005

Prohibits any person from advertising his or her services using the term “notario,” “notario publico,” or any similar term, unless the person is a notary public and complies with notice requirements.

ACT 68 OF 2005

Increases the number of trustees on the Board of Trustees of the State Police Retirement System. Effective 6/1/2005.

ACT 69 OF 2005

Requires a disability medical examination under the State Police Retirement System to be performed by board-designated medical professionals using the Arkansas State Police active-duty criteria. Effective 6/1/2005.

ACT 70 OF 2005

Repeals § 5-66-103(b) concerning the criminal liability of a sheriff or deputy sheriff regarding duty to arrest in an investigation of a gambling house.

ACT 75 OF 2005

Amends § 8-6-412 to empower “illegal dumps control officers” to issue citations for unlawful littering. Adds more disposal requirements for solid-waste violators. Effective 2/7/2005.

ACT 76 OF 2005

Allows the Arkansas State Police to authorize a private driver-training facility to administer a skills test for a commercial driver’s license. Amends § 27-23-114(h) (2) to remove the Class A misdemeanor penalty and to provide that knowingly committing fraud in obtaining a commercial driver’s license is an unclassified misdemeanor with a fine of \$5,000 or imprisonment up to a year in jail. Any fine collected will be deposited in the Arkansas State Police Fund.

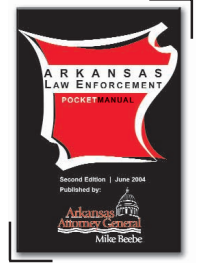
ACT 79 OF 2005

Clarifies the law-enforcement authority of the Arkansas Forestry Commission to enforce criminal laws involving the theft of trees, timber, and logs.

Unless otherwise noted, these Acts will not go into effect until 90 days after the General Assembly adjourns.

ARKANSAS LAW ENFORCEMENT POCKET MANUAL

Attorney General Mike Beebe is pleased to announce the availability of the second edition of the Arkansas Law Enforcement Pocket Manual to officers in the state. We hope the manual will be a valuable tool. Although the number of manuals is limited, we will attempt to give a copy to every law-enforcement officer in Arkansas.



Please use the form below to order the number of copies needed for the officers in your agency. If you have any questions, call Dwayne Yarbrough at 1-800-448-3014 or (501) 682-2028.

Quantity Requested _____

Contact Name _____

Organization _____

Physical Address _____

Mailing Address _____

City _____

Zip _____

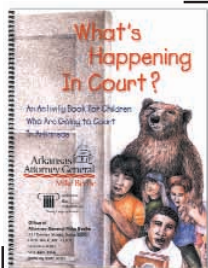
Phone _____

Fax _____

E-mail _____

Fax this form to:

Office of Attorney General Mike Beebe | Attention: Community Relations Division
323 Center Street, Suite 1100 | Little Rock, AR 72201 | FAX (501) 682-6704



WHAT'S HAPPENING IN COURT? A CHILD'S GUIDE TO NAVIGATING THE COURT SYSTEM.

Attorney General Mike Beebe is pleased to announce the availability of "What's Happening in Court? An Activity Book for Children Going to Court in Arkansas." This booklet was compiled with the help of the Young Lawyers Section of the Arkansas Bar Association and the Arkansas Case Coordinators' Association. Our goal is to make the experience of going to court easier for all children to understand.

Please use the form below to order the number of copies of this booklet for your organization. If you have any questions, call Carol Robinson at 1-800-448-3014 or (501) 682-3654.

Quantity Requested _____

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TRAFFIC STOPS

AND DRUG SNIFFING DOGS

By: Lauren Heil, Assistant Attorney General

In the recent case of *Illinois v. Caballes*, the Supreme Court of the United States held that police are not required to have reasonable suspicion of a drug offense before using a drug-sniffing dog during a traffic stop. *Caballes* is significant because it holds that an otherwise lawful traffic stop does not become unlawful simply because the police investigate another offense other than the traffic violation, which was the reason for the stop.

Illinois State Trooper Daniel Gillette stopped Roy Caballes for speeding on an interstate highway. When Gillette radioed the police dispatcher to report the stop, a second trooper, Craig Graham, overheard the transmission and immediately headed for the scene with his narcotics-detection dog. When Graham arrived, Caballes' car was on the shoulder of the road and Caballes was in Gillette's vehicle. While Gillette was in the process of writing a warning ticket, Graham walked his dog around Caballes' car. The dog alerted at the trunk. Based on that alert, the officers searched the trunk, found marijuana, and arrested Caballes. The entire traffic stop lasted less than 10 minutes.

The Illinois Supreme Court reversed the denial of Caballes' motion to suppress the marijuana evidence. Although the canine sniff occurred before the conclusion of the traffic stop, and the Supreme Court of the United States already had held that a canine sniff was not a search, the court concluded that the troopers were required to have reasonable suspicion before using the dog. The court took the view that, during routine traffic stops, officers are limited to investigating the traffic violations that are the bases for the stops: i.e. that police could not begin another investigation, such as the drug investigation in *Caballes*, without reasonable suspicion.

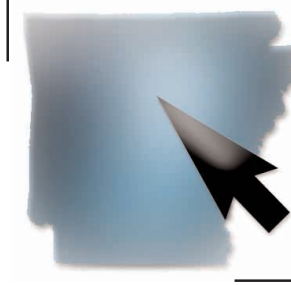
The Supreme Court rejected the Illinois court's view. The Court concluded that, as long as a traffic stop is supported by probable cause and it is performed in a reasonable manner, using a drug-sniffing dog without reasonable suspicion does not make the stop unlawful. Reasonable suspicion would only be required if the dog sniff intruded on Caballes' privacy. Because a dog sniff is not a search, and the traffic stop was not over when it occurred, the Court held there was no intrusion.

Caballes does not change the way dog sniffs are conducted during traffic stops in Arkansas. Once the traffic stop is over, police officers must still have reasonable suspicion to detain the motorist while the drug dog is used. During the course of the stop, however, Arkansas police officers do not need reasonable suspicion to perform other non-intrusive activities that do not extend its duration, such as requesting consent to search, asking questions about the motorist's destination and purpose, checking criminal history, and canine sniffs.

Note: The author of this article filed an *amicus* brief in the case that was joined by several other states.

THE ARKANSAS GENERAL ASSEMBLY: A BRIEF "VIRTUAL" TOUR

By: Nicky Sherman, Assistant Attorney General and Law Librarian



The Arkansas General Assembly has a very informative Web site that may be accessed by the public. Below, you will find a virtual tour of navigation instructions for using this helpful tool when contacting members of the General Assembly.

First, find out who represents your area. There are two ways to locate that information. One is to go to the state's Web site at <http://www.arkansas.gov>. From the menu in the blue box on the left, select "Government"; next, click "Search for U.S. and Arkansas Senators and Representatives" to go to the search screen.

In the blue box on the left, put checks in the boxes for the legislators you are looking for, or select "all" to find all of your state and federal senators or representatives. You may search for the legislators by county, by zip code, or by last name. You will need to know, in advance, the state districts you live in, as the search results will give you all the House and Senate members for the county, even if you only enter your zip code. As an alternative, you may click on your county on the Arkansas map. Scroll down the listing to find the legislators from your district.

The second way to find the officials who represent you is to contact your county clerk's office for the numbers of the district you reside in, if you do not already have that information. Once you have called your county clerk's office for the district number, you may go directly to the General Assembly's Web site.

With the legislators' names or the district number, you may now find other information about your legislators on the General Assembly's Web site, <http://www.arkleg.state.ar.us>

From the menu on the left of the first screen, select "Legislators and Committees". This will take you to a screen offering profile listings by senator or representative, by district, or by seniority. The profiles of the legislators will include e-mail addresses, if available, the mailing address, and telephone number.

If you want to research a particular bill, look at the menu on the left side of the first screen on the General Assembly's Web site, and select "Bills and Resolutions". If you know the bill number, you may find it in the legislative process by clicking on "Bill Status", entering the number in the query window, and clicking "Run Query". Clicking on the bill number at the top of the status screen will take you to the text of the bill.

There is much more information available on the General Assembly's Web site than can be covered here, so visit the Web site and explore!

HELPER'S HIGHLIGHT

By: Stephen Svetz, Prevention and Education Instructor

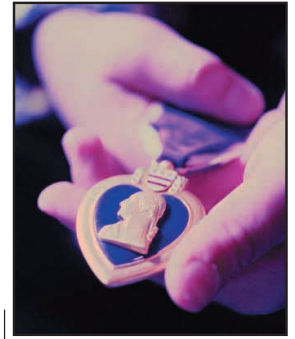
Someone once said, "A man never stands so tall as when he stoops to help a child." In this issue of Ten-Eight, we are pleased to recognize two Marion law-enforcement officers whose efforts to help children will have lasting benefits to their community and to our state: Sergeant Dennis Smith and Detective Freddy Williams. Chief John Griffin, who has served in the Marion Police Department for 33 years, said of these men, "Although I am proud of everyone in the department, it makes my job easier having officers like Dennis and Freddy on board."

Sergeant Smith, of the Marion Police Department, began his career as a part-time officer in August of 1997, and by December of that year, he was hired as a full-time employee. He worked his way through the ranks, first being promoted to Corporal in August of 2001 and to Sergeant in the patrol division three years later. He now leads the 4-12 shift for the department. Sergeant Smith is a certified police instructor and received the Marion Officer of the Year Award in 2004.

Always looking for ways to improve communication between parents and children through drug education, Smith has created a program called Parenting and Drug Awareness (PADA). There are many facets to this program, but, in part, it was designed to educate parents about current drug terminology and to teach them to recognize various illicit drugs. Smith speaks at schools, churches, and parent groups on his own time and using his own resources. We commend him for his efforts to help the children and families of his community. Sergeant Smith and his wife, Selena, have two children, 16-year-old Ben and Sara, who is 12.

Detective Freddy Williams joined the Marion Police Department in November of 2000. While on routine patrol in 2003, Williams was shot by a passenger in a vehicle he had stopped for a traffic violation. He was able, however, to return fire and later recovered and returned to active duty.

Williams was recognized as the Marion Police Officer of the Year in 2002 and again in 2003. He received the Medal of Valor from the City of Marion, the Purple Heart, and a Commendation Citation Award presented by Mayor Frank Fogleman and the Marion City Council.



Also in 2003, Williams was chosen as the State of Arkansas' Officer of the Year and was presented that honor by Attorney General Mike Beebe. Additionally, he was named the Officer of the Year for 2003 by the Chiefs of Police Association of Arkansas. Officer Williams was awarded the Medal of Valor by the City of West Memphis on July 2, 2003.

Williams has served as a board member with the Marion Youth Sports Association, and he currently is a member of the Marion Chamber of Commerce. During off-duty hours, he coaches youth baseball, football, and basketball. Freddy and his wife, Deborah, a local pediatric dentist, have been married for 17 years and have an 11-year-old son, Dalton, and an 8-year-old-daughter, Brooke.

If you know an officer who volunteers time to improve the lives of Arkansans, please contact Stephen Svetz in the Community Relations Division of Attorney General Mike Beebe's Office at 1-800-448-3014 or 501-682-3646.

GUEST COLUMN

The Arkansas State Crime Lab is proud to announce the opening of the Digital Evidence section. This section is now available to accept evidence for cases that require data recovery from desktop computers, laptops, cell phones, and hand-held devices (i.e. palm or pocket PCs).

Examples of case types handled will include the following: child pornography, homicide, suicide, rape, terroristic threatening, white-collar crime, fraud, and clandestine methamphetamine-laboratory investigations.

Please contact us prior to submitting evidence for possible keyword search lists and case briefing. Evidence should be taken to the Evidence Receiving area of the Little Rock location and will be subject to the same packaging and sealing requirements as all other submissions.

Contact information:

Jeff Taylor

Chief Digital Evidence Analyst | Arkansas State Crime Laboratory

Jeff.Taylor@ascl.state.ar.us | 501-683-6237 | <http://www.arkansas.gov/crimelab/>



ARKANSAS SUPREME COURT

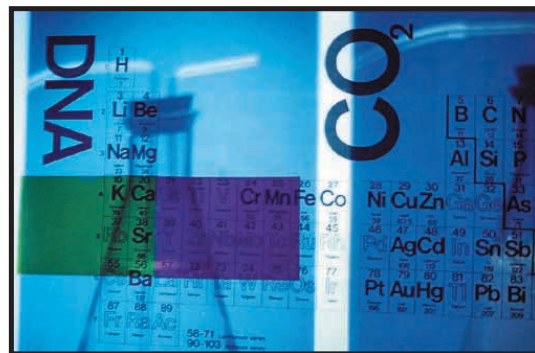
By: David Raupp, Senior Assistant Attorney General

AFFIRMS ANY FELONY DNA COLLECTION

In 1997, the General Assembly enacted the “DNA Detection of Sexual and Violent Offenders Act.” The Act seeks to assist in criminal investigations, to exclude individuals who are the subjects of criminal investigations or prosecutions, and to deter and detect recidivists. In 2003, the General Assembly renamed the Act the “State Convicted Offender DNA Database Act” and amended it to provide for DNA testing of all individuals convicted of all “qualifying offenses.” A qualifying offense is “any felony offense as defined in the Arkansas Criminal Code.” Under the Act, any person adjudicated guilty of a felony is required to have a DNA sample drawn upon intake to confinement, as a condition of any disposition that does not require confinement, or, if already confined, immediately after sentencing.

Ronnie Polston pleaded guilty to possession of methamphetamine, possession of marijuana with intent to deliver, possession of drug paraphernalia, and possession of drug paraphernalia with intent to use. In addition to two years’ confinement in a regional punishment facility and a \$2,500 fine, the Independence County Circuit Court assessed a \$250 DNA-testing fee. Polston appealed, claiming that DNA testing of non-violent offenders or non-sexual offenders, pursuant to the State Convicted Offender DNA Database Act, violates the Fourth Amendment of the United States Constitution and article 2, section 15, of the Arkansas Constitution and the right to privacy under both constitutions.

On January 20, 2005, the Arkansas Supreme Court rejected Polston’s arguments, concluding “that the collection and maintenance of DNA samples pursuant to the DNA Act is reasonable in light of the substantial interests of the state and the diminished privacy interests of convicted felons.” The Court noted that the state has an interest in deterring recidivism as to all crimes, not just violent or sexual crimes, relying on statistics showing that non-violent offenders often recidivate by committing violent crimes. The Court found no basis to invalidate the DNA Act on state constitutional-or-privacy grounds, and, thus, this tool for the detection and prevention of crime can continue to serve its valuable law-enforcement role.



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